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SUBJECT: EGYPT'S EMERGENCY LAW AND ITS BROAD USES

1. KEY POINTS

-- Egypt's State of Emergency, in effect almost continuously since 1967, allows for the application of the 1958 Emergency Law, which grants the GOE broad powers to arrest individuals without charge and to detain them indefinitely.

-- The Emergency Law creates state security courts, which issue verdicts that cannot be appealed, and can only be modified by the president.

-- The Emergency Law allows the president broad powers to "place restrictions" on freedom of assembly. Separately, the penal code criminalizes the assembly of 5 or more people in a gathering that could "threaten public order."

-- Over the past two decades, the vast majority of cases where the government has used the Emergency Law have been to target violent Islamist extremist groups such as the Islamic Group and Al-Jihad, and political activity by the Muslim Brotherhood. However, the GOE has also used the Emergency Law in some recent cases to target bloggers and labor demonstrators.

----- Broad Powers Granted to the Government -----

12. Since the 1967 Arab-Israeli war, Egypt has almost continuously been under a State of Emergency. The State of Emergency allows for the application of the Emergency Law of 1958, which grants the government broad powers to restrict civil liberties by acting outside the civil and criminal codes. Article 3 of the Emergency Law allows the president to order "placing restrictions on personal freedom of assembly, movement, residence, traffic in specific areas at specific times," and "the arrest of suspects or individuals threatening public security and order," and arrests and searches without implementation of the law of criminal procedures..." In practice, the Interior Ministry carries out "the order" of the President either orally or in writing. Article 3 also authorizes surveillance of personal messages and confiscation of publications.

----- Detention Under the Emergency Law -----

13. Article 3 of the law stipulates that detainees can appeal an arrest order after six months in a state security court, and that the court's decision is subject to approval by the president. In practice, after 30 days in prison, detainees can demand court hearings to challenge detention orders. Detainees can re-submit demands for hearings every 30 days; however, a judge can uphold a detention order indefinitely. The Emergency Law does not mandate a maximum detention period, and therefore allows the government, subject to the

approval of a State Security court and the president, to detain individuals indefinitely without charge.

The Emergency Law's Court System

¶4. Article 7 of the law creates state security courts. Three civilian judges preside over the courts, two of whom may be replaced by military judges appointed by the president. The law also establishes state security prosecutors who review cases and refer them to the state security courts. Per article 7, judges' verdicts in state security courts are final; there is no appeal process. Article 6 also stipulates that all state security court verdicts are subject to the review of the president, and Article 14 allows the president to modify sentences handed down by state security court judges.

Assembly under the Emergency Law and the Penal Code

¶5. Per para 2, the Emergency Law gives the president power to place "restrictions on personal freedom of assembly." Separately, in the penal code, law 10 of 1914 criminalizes the "assembly of five or more people in a gathering that could threaten public order or security." The law of meetings and demonstrations, law 14 of 1923 requires citizens to notify police prior to holding a gathering, and allows police to prevent a gathering from taking place and to dissolve a gathering once it is convened.

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Terrorism Cases under The Emergency Law

¶6. During the 1990's when Islamist terror organizations such as The Islamic Group and Al-Jihad carried out a series of attacks, the government arrested and detained thousands of Islamists under the Emergency Law. Contacts estimate that about 4,000 to 5,000 of these detainees remain in prison. Under the Emergency Law, security forces detained groups of Bedouin in the Sinai in connection with investigations into terror attacks there in 2004, 2005 and in April 2006.

¶7. In late 2008, the government used the Emergency Law to arrest 26 members of a Hizballah cell, 18 of whom are Egyptian. The cell was allegedly working to target U.S. and Israeli ships transiting the Suez Canal. The case is now before a state security court. In July 2009, the government used the Emergency Law to arrest and detain a group of 25 Egyptians and one Palestinian. The group allegedly aided Hamas, assisted in the February 2009 bombing at the Khan Al-Khalili market in Cairo, and robbed a Cairo jewelry store owned by Copts. According to press reports, on January 4 a state security prosecutor transferred the case to a state security emergency court.

Emergency Law Cases Not Related to Terrorism

¶8. The government has also used the Emergency Law in cases not related to terrorism. The GOE jailed blogger Hany Nazir under the Emergency Law in October 2008 following posts deemed offensive to Christianity and Islam. The GOE has also imprisoned activist and blogger Musad Abu Fagr since December 2007 under the Emergency Law following posts about difficulties faced by Sinai Bedouin. In 2008, the government arrested a blogger from the heterodox Islamic Quranic sect under the Emergency Law, and detained him for approximately 90 days.

¶9. In recent years, the government has used the Emergency Law to arrest large numbers of Muslim Brotherhood (MB) members without charge in the run-up to the 2005 parliamentary elections, the 2008 local council elections and the 2010 parliamentary elections. The government released most of the detainees after holding them from periods ranging from a few days to several months.

¶10. The government used the Emergency Law to arrest and prosecute 49 individuals in connection to clashes that broke out between workers and police during an April 2008 labor strike in the Delta town of Mahalla. In December 2008, a state security court convicted 22 people on charges of assaulting police officers, robbery, and possession of unlicensed weapons. In 2004, a state security court convicted 26 men linked to the banned Islamic Liberation Party for belonging to a banned organization. Several defendants alleged the government tortured them to obtain confessions.

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